

Mike Palmer  
18402 N. 19<sup>th</sup> Ave., #109  
Phoenix, AZ 85023  
(602) 513-3738 (intermittent cell)  
mikepalmer\_arizona@fastmail.fm

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND  
RULES OF THE COMMISSION ON  
JUDICIAL CONDUCT

Supreme Court No. R-13-\_\_\_\_\_

Pursuant to Rule 28, Rules of the Supreme Court, Mike Palmer, a member of the public deeply concerned about justice,<sup>1</sup> petitions this Court to add the phrase “and Incapacity” to the name of the Commission on Judicial Conduct. And to create/direct a policy for the Commission whereby the Commission promulgates to the public, via its website, that it is the proper authority to report incapacity of a judge. Consistent with this, the Commission should post a separate dedicated form on its website for citizens (and others) to file reports of incapacity of judges to the Commission.<sup>2</sup>

---

<sup>1</sup> Per Amos 5:15 in the Bible: “Hate evil, love good. Maintain justice in the courts.”

<sup>2</sup> Frankly, I prefer the word “disability” for the Commission’s title and for reports, since that’s the word used in our Constitution and in the federal (cont.)

## **I. Background and Purpose of the Proposed Rule Amendments**

I write a few words to give the Court some idea of what it's like to be an ordinary citizen on the outside of the judiciary looking in, searching the Internet trying to figure out how to report judicial disability and to whom.

As I trust that everyone in this forum knows about Article 6.1, Section 4 of the Arizona Constitution which says, "On recommendation of the commission on judicial conduct, the supreme court may retire a judge for disability that seriously interferes with the performance of his duties and is or is likely to become permanent . . ."

But my guess is that most Arizonans haven't got a clue.

I'm sad to report that I didn't remember this little factoid from the last time I read the Constitution either. Nor does an Internet search for the phrase "judicial disability" return a hit to our Constitution, since the phrase "judicial disability" is not there. I had to be directed to this tidbit by a Commission staffer after I had the

---

arena. Citizens searching the Internet would more likely find the Commission as they search for "judicial disability." Who's going to search for "judicial incapacity," as the Commission calls it?

Nevertheless, I understand the Commission's distinction between incapacity and disability. (Although it seems too politically sensitive for my taste.) But it would be a losing battle for me to try to change that. The word will get around soon enough if the Commission adds "Incapacity" to its title.

bright idea to call.

There's Rule 2.14 in the Code of Judicial Conduct, titled *Disability*, and I knew to look there. (And the Code is downloadable easily enough from the Commission's website.) Still, Rule 2.14 isn't any help.

That Rule makes it misconduct if a judge does not take “appropriate action” when he has a reasonable belief a judge is impaired.<sup>3</sup> But it does not speak to what concerned citizens or clerks should do.

The Rule doesn't require a judge report disability to the Commission. Only to some nebulous “appropriate authority”. So that leaves citizens wondering if the Commission is the appropriate authority.

It wasn't until I did some creative “reverse searching” on the Internet that I found Rule 33 titled “Incapacity Proceedings” in the Commission's Rules. [FYI, while the Commission's Rules are downloadable from the Commission's site, 1) who, except a Commissioner, would think of looking there and 2) no citizen should have to trudge through this stuff to find something so important about

---

<sup>3</sup> Curiously, reporting disability to the Commission is not mandatory.

disability/incapacity of a judge.<sup>4]</sup>

Moreover, the only form posted for filing reports with the Commission is a complaint form, so titled. From its context, it's clear it's about complaints of misconduct. Whereas the federal judiciary tells citizens to file reports titled either "Misconduct" or "Disability."

As it stands now, if a citizen has reason to believe a judge is disabled, it's likely the citizen doesn't know who to tell.

The Court can help my fellow citizens by modifying the name of the Commission to be the "Commission on Judicial Conduct & Incapacity." Once the Press starts reporting it that way in news reports, it will be obvious by the name recognition that the Commission is the go-to place to file reports of disability.

Name change or no, the Commission should make it more obvious on its website that it takes in reports of disability/incapacity. A separate page discussing what information the Commission needs to make a valid assessment would help the public.

Part and parcel with the above, the Commission should create a separate

---

<sup>4</sup> Interestingly, an Internet search focused on the Commission's website for the word "incapacity" only returns one hit. While that word is on the home page for judicial complaints, there is no hyperlink to direct a citizen to Rule 33.

form for reporting incapacity, distinct from the form used for complaints.

Naturally, a link to that form should appear at a few places on the Commissions website. Its home page as a minimum.

The webmaster should also mention “disability / incapacity” in the description meta-tag for the Commission's website, so the search engines will return a hit when citizens search for that term on the Internet.

SUBMITTED this 10<sup>th</sup> day of January, 2013

By /s/ Mike Palmer  
Mike Palmer  
18402 N. 19<sup>th</sup> Ave., #109  
Phoenix, AZ 85023